

## REMARKS/ARGUMENTS

Prior to entry of this Amendment:

- Claims **4, 6-10, 13-23, 31, 32, 36-38** and **42-49** were pending in the present application
- Claims **4, 6, 7, 9, 31, 32**, and **37** are rejected
- Claims **8** stands as objected to as being dependent on a rejected base claim, but would be allowable if rewritten to incorporate the limitations of the underlying claims
- Claims **24-30** have been withdrawn
- Claims **10, 13-23, 36, 38**, and **42-49** are allowed

Upon entry of this Amendment, which is respectfully requested for the reasons set forth below:

- Claims **4, 6-10, 13-23, 31, 32, 36-38** and **42-49** will be pending and are believed to be in condition for allowance following the amendment to claim **4**.

Applicant would like to thank the Examiner for issuing the non-final action mailed on July 25, 2007. Applicant respectfully disagrees with Examiner's rejection of claims **4, 6, 7, 9, 31, 32**, and **37** for the reasons stated below.

### ***Claim Rejections- 35 U.S.C. §102 Claim 4 and 9***

Claims **4** and **9** are rejected as anticipated by U.S. Patent No. 3,261,625 to Cripe. Cripe describes a partition construction for buildings which can be used to partition rooms into various subsections. The Office Action at page 3 states that "Cripe discloses a system for removably and adjustably mounting a flat panel"; however, a close examination of Cripe indicates that it lacks the required elements of both a "footing grid" and a "plurality of keepers" as claimed in claim **4**. However, in order to expedite the prosecution of the application, claim **4** is hereby amended to include the limitation that the rail being mounted to a surface "is substantially parallel to said surface" as described in the application (see, for example, **FIG. 1**). Unlike the rail (36) of Cripe, which is oriented substantially *perpendicular* to the plane of the surface on which it is being constructed, the rail of claim **4** of the instant application does not extend into the plane of the surface upon which the photovoltaic devices or flat panels are being mounted. Applicant respectfully requests withdrawal of the rejection of claims **4** and **9** and objection to claim **8**.

***Claim Rejections- 35 U.S.C. §102 Claim 6, 7, 31, 32, and 37***

Claims **6, 7, 31, 32, and 37** are rejected as anticipated by U.S. Patent No. 3,513,606 to Jones. However, Jones does not disclose any structure for *connecting* the system to the surface. Jones merely discloses a joint structure for removable partitions or shelving units. The units sit on foot pads which are not connected to the surface. The Jones patent describes “a flat circular foot pad 18 attached to the lower end thereof [of threaded shank 17] and adapted to *rest* on the floor to support a structural assembly of the various parts of the invention”. (col 4; ll. 6-8)(italics added). Therefore, Jones does not anticipate independent claims **6** or **31**, both of which recite that the system is *connected* to the surface, not merely *resting* on the surface. Claims **7, 32, and 37** are therefore also not anticipated as they are based on novel underlying claims.

**CONCLUSION**

In view of the above amendment and comments, Applicant believes that all claims are allowable. Applicants submit that no new matter has been added by this Amendment. Early and favorable action is requested.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Ali Shah at telephone number (202) 663-6064 or via electronic mail at ali.shah@wilmerhale.com.

Respectfully submitted,



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